

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MICHAEL OWEN GARDNER,

Plaintiff,

v.

CDCR, et al.,

Defendants.

Case No. 1:24-cv-0933 JLT SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF’S REQUEST FOR A
TEMPORARY RESTRAINING ORDER OR
PRELIMINARY INJUNCTION**

(Doc. 9)

Michael Owen Gardner seeks to hold the defendants liable for violations of his civil rights while housed at SATF- Corcoran. (*See generally* Doc. 1.) He requests a temporary restraining order or preliminary injunction to protect disabled inmates, such as himself. (Doc. 1 at 8-12.) Specifically, Plaintiff requests that the Court order “the California Department of Corrections and Rehabilitation to cease using Facility-A building (3) as an [Orientation] Building and to cease bringing active [main] line prisoner and gang members to this Facility-A who do not want to program.” (*Id.* at 12.) In addition, Plaintiff requests the Court order the CDCR stop the assaults on disabled inmates that occur in Facility-A. (*Id.*)

The magistrate judge found Plaintiff “failed to make a sufficient showing to warrant the granting of a temporary restraining order and/or preliminary injunction.” (Doc. 9 at 3.) The magistrate judge also noted that a party seeking a preliminary injunction must show a “likelihood of succeed on the merits,” and determined that Plaintiff failed to satisfy this requirement because

1 he did not state cognizable claims in his complaint. (*Id.* at 3, citing *Winter v. Nat. Res. Def.*
2 *Council, Inc.*, 555 U.S. 7, 20 (2008).) Therefore, the magistrate judge recommended the motion
3 for injunctive relief be denied.

4 The Court served the Findings and Recommendations on Plaintiff and notified him that
5 any objections were to be filed within fourteen days. (Doc. 9 at 4.) The Court also informed
6 Plaintiff that the failure to file timely objections may result in a waiver of his rights on appeal.
7 (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file any
8 objections and the time to do so has expired.

9 According to 28 U.S.C. § 636(b)(1), the Court performed a *de novo* review of this case.
10 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
11 are supported by the record and by proper analysis. Thus, the Court **ORDERS**:

- 12 1. The Findings and Recommendations filed on September 11, 2024 (Doc. 9) are
13 **ADOPTED** in full.
- 14 2. Plaintiff's request for a temporary restraining order or preliminary injunction
15 (Doc. 1 at 8-12) is **DENIED**.

16
17 IT IS SO ORDERED.

18 Dated: **October 9, 2024**


UNITED STATES DISTRICT JUDGE